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8 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 NATHAN BRADLEY FOUTS,

11 Plaintiff,

12 v.

13 DION, et al.,

14 Defendants.

CASE NO. 3:23-CV-5594-RAJ-DWC

ORDER DENYING MOTION FOR
COUNSEL

15 Plaintiff Nathan Bradley Fouts, proceeding *pro se* and *in forma pauperis* in this 42 U.S.C.
16 § 1983 action, filed a letter requesting Court-appointed counsel (“Motion”). Dkt. 7. No
17 constitutional right to appointed counsel exists in a § 1983 action. *Storseth v. Spellman*, 654 F.2d
18 1349, 1353 (9th Cir. 1981); *see United States v. \$292,888.04 in U.S. Currency*, 54 F.3d 564, 569
19 (9th Cir. 1995) (“[a]ppointment of counsel under this section is discretionary, not mandatory”).
20 However, in “exceptional circumstances,” a district court may appoint counsel for indigent civil
21 litigants pursuant to 28 U.S.C. § 1915(e)(1) (formerly 28 U.S.C. § 1915(d)). *Rand v. Roland*,
22 113F.3d 1520, 1525 (9th Cir. 1997), *overruled on other grounds*, 154 F.3d 952 (9th Cir. 1998).
23 To decide whether exceptional circumstances exist, the Court must evaluate both “the likelihood
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1 of success on the merits [and] the ability of the [plaintiff] to articulate his claims *pro se* in light
2 of the complexity of the legal issues involved.” *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th
3 Cir. 1986) (*quoting Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983)). A plaintiff must plead
4 facts showing he has an insufficient grasp of his case or the legal issues involved and an
5 inadequate ability to articulate the factual basis of his claims. *Agyeman v. Corrections Corp. of*
6 *America*, 390 F.3d 1101, 1103 (9th Cir. 2004).

7 In the Motion, Plaintiff states he does not know what he is doing in attempting to litigate
8 this case and requests Court-appointed counsel. Dkt. 7. At this time, Plaintiff has not shown, nor
9 does the Court find, this case involves complex facts or law. Plaintiff has also not shown he is
10 likely to succeed on the merits of his case or shown an inability to articulate the factual basis of
11 his claims in a fashion understandable to the Court. While Plaintiff may be able to better litigate
12 this case with appointed counsel, that fact, alone, does not establish an extraordinary
13 circumstance warranting the appointment of counsel. *See Rand*, 113 F.3d at 1525; *Wilborn*, 789
14 F.2d at 1331. Therefore, the Court finds Plaintiff has failed to show the appointment of counsel is
15 appropriate at this time. Accordingly, Plaintiff’s Motion (Dkt. 7) is denied.

16 Dated this 18th day of July, 2023.

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19 David W. Christel
20 Chief United States Magistrate Judge
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